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UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/808,487	03/14/2001	James Robert Davis	STL9-2000-0074US1	3624

45112 7590 04/06/2007	EXAMINER	
KUNZLER & ASSOCIATES	BLAIR, DOUGLAS B	
8 EAST BROADWAY		
SUITE 600	ART UNIT	PAPER NUMBER
SALT LAKE CITY, UT 84111	2142	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/06/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

PTOL-90A (Rev. 10/06)

	Application No.	Applicant(s)
Office Action Summary	09/808,487	DAVIS ET AL.
	Examiner	Art Unit	
	Douglas B. Blair	2142	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>11 January 2007</u>.
2a)☐ This action is **FINAL.** 2b)☒ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-20</u> is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) <u>1-20</u> is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a)☐ All b)☐ Some * c)☐ None of:
      1.☐ Certified copies of the priority documents have been received.
      2.☐ Certified copies of the priority documents have been received in Application No. _____.
      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date <u>1/11/2007</u>.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____ .

DETAILED ACTION

Response to Amendment

1.   Claims 1-20 are currently pending in this application.

2.   The amendment filed 1/11/2007 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: The applicant has changed the description of a network medium in such a way that it constitutes new matter.

3.   Applicant is required to cancel the new matter in the reply to this Office Action.

Response to Arguments

4.   Applicant's arguments, see Remarks, filed 1/11/2007, with respect to the rejection(s) of claim(s) 1-20 under Lin and Smith have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Lin, Smith, and Bach.

Specification

5.   The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: the term "computer readable medium" is not described in the applicant's specification.

Claim Rejections - 35 USC § 101

6.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or
> any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and
> requirements of this title.

7.   Claims 8-20 are rejected under 35 U.S.C. 101 because the claimed invention is directed

to non-statutory subject matter. Claims 8-14 are directed towards a computer readable medium

that when interpreted as the disclosed network medium is directed towards non-statutory subject

matter such as transmission protocols such as Ethernet, token-ring and radio waves and wireless

mediums. Claims 15-20 are directed towards a system comprised only of software. Software

does not fall within a statutory category of invention and is considered functional descriptive

material (See MPEP section 2106.01).

Claim Rejections - 35 USC § 103

8.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

9.   Claims 15-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent

Number 6,269,402 to Lin et al. in view of U.S. Patent Number 6,877,036 to Smith et al. and U.S.

Patent Number 5,781,739 to Bach et al.

10.   As to claim 15, Lin teaches a system for ensuring client access to unpaired messages

from a server comprising: a request module configured to receive a client request (**col. 3, lines 5-**

27, a request module is inherent to any server); a response generator which receives the client

request from the request module and generates and appropriate response message **(col. 3, lines 5-**

27, a response generator is inherent to any server); an unpaired message module which

analyzes the response message generated by the response generator and configured to distinguish

a paired message from an unpaired message in response to a communication disruption between

the client and the server **(col. 5, line 59-col. 6, line 66 and col. 6, lines 40-43, the server has**

distinguished the unpaired messages intended for the client from all other messages) and to

store paired messages in a paired response data structure **(col. 6, lines 40-43, the paired**

messages are not stored in the session transition control block so the data structure that

they are stored in is considered the paired response data structure) and unpaired messages in

an unpaired response data structure **(col. 6, lines 40-43, the unpaired messages are stored in**

the session transition control block); and a response module which communicates paired and

unpaired messages to a client **(col. 6, lines 13-46)**; however Lin does not teach the claimed

system in the context of a DBMS server managing OTMA transactions.

Bach teaches a method for managing messages with a DDMB server that communicates

transaction response using OTMA (col. 4, lines 18-col. 5, line 12).

It would have been obvious to one of ordinary skill in the Computer Networking art at the

time of the applicant's invention to combine the teachings of Lin regarding message

management with the teachings of Bach regarding message management in an OTMA context

because OTMA is a commonly used server management scheme (Bach, col. 1, lines 16-59).

11.   As to claim 16, Lin teaches the system of claim 15, wherein the unpaired message

module is further configured to dynamically create the unpaired response data structure in

response to a first unpaired response message **(col. 5, line 35-col. 6 line 46)**.

12.   As to claim 17, Lin teaches the system of claim 15, wherein the response module is

configured to automatically send all unpaired messages stored in the unpaired response data

structure **(col. 6, lines 13-46)**.

13.   As to claim 18, Lin teaches the system of claim 15, wherein the response module is

configured to send all unpaired messages stored in the unpaired response data structure in

response to a request from the client **(col. 5, line 35-col. 6 line 46)**.

14.   As to claim 19, Lin teaches the system of claim 15, wherein the system is activated upon

the server receiving an activation request from the client **(col. 5, line 35-col. 6 line 46, then the

client comes back the messages are retrieved)**.

15.   As to claim 20, Lin teaches the system of claim 15, wherein the response module notifies

the client when the unpaired response data structure contains at least one unpaired message **(col.

6, lines 40-43, the messages are sent to the client and thus they are a notification)**.

16.   Claims 1-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent

Number 6,269,402 to Lin in view of U.S. Patent Number 6,877,036 to Smith et al. in further

view of U.S. Patent Number 5,781,739 to Bach et al.

17.   As to claim 1, Lin teaches a method for ensuring client access to unpaired messages from

a server, comprising: the server distinguishing, by analyzing a response message, at least one

unpaired message from a paired message in response to a communication disruption between the

client and the server **(col. 5, line 59-col. 6, line 66 and col. 6, lines 40-43, the server has**

distinguished the unpaired messages intended for the client from all other messages), the

server storing the at least one unpaired message in an unpaired message data structure, the at

least one unpaired message comprising a communication response to a client **(col. 6, lines 40-43,**

the unpaired messages are stored in the session transition control block); creating the

unpaired message data structure in a server, the unpaired message data structure configured to

store a plurality of unpaired messages intended for the client and utilizing a protocol which

allows the client to request at least one unpaired message stored in the unpaired message data

structure **(col. 6, lines 13-46)**; however Lin does not explicitly teach the unpaired message data

structure being an unpaired message queue.

Smith teaches the use of an output queue in a system for managing connections between

clients and server (col. 8, line 65-col. 9, line 26).

It would have been obvious to one of ordinary skill in the Computer Networking art at the

time of the invention to combine the teachings of Lin regarding a system for ensuring a client

access to unpaired message with the teachings of Smith regarding the use of an output queue

because the use of an output queue reduces the load on a server's CPU (Smith, col. 1, lines 15-

44); Bach teaches a method for managing messages with a DDMB server that communicates

transaction response using OTMA (col. 4, lines 18-col. 5, line 12).

It would have been obvious to one of ordinary skill in the Computer Networking art at the

time of the applicant's invention to combine the teachings of Lin regarding message

management with the teachings of Bach regarding message management in an OTMA context

because OTMA is a commonly used server management scheme (Bach, col. 1, lines 16-59).

18.   As to claim 2, Lin teaches the method of claim 1, wherein the method further comprising

the server dynamically creating the unpaired message queue in response to the server detecting at

least one unpaired message **(col. 5, line 35-col. 6 line 46)**.

19.   As to claim 3, Lin teaches the method of claim 1, wherein the method further comprising

notifying the server of a client request to enable dynamic creation of the unpaired message queue

(col. 5, line 35-col. 6 line 46).

20.   As to claim 4, Lin teaches the method of claim 3, wherein notifying the server occurs

during establishment of communications between the client and the server **(col. 5, line 35-col. 6

line 46)**.

21.   As to claim 5, Lin teaches the method medium claim 1, wherein the method further

comprising the server notifying the client when the unpaired message queue contains an unpaired

message **(col. 5, line 35-col. 6 line 46)**.

22.   As to claim 6, Lin teaches the method of claim 1, wherein the method further comprises:

generating a request message to be sent from the client to the server **(col. 5, line 35-col. 6 line

46)**; storing an indicator in request message to enable the client to distinguish between unpaired

messages **(col. 5, line 35-col. 6 line 46)**.

23.   As to claim 7, Lin teaches the method of claim 1, wherein utilizing the protocol further

comprises allowing the client to request automatic transmission of unpaired messages stored in

the unpaired message queue **(col. 5, line 35-col. 6 line 46)**.

24.   As to claims 8-14, they are rejected for the same reasons as claims 1-7.

Conclusion

25.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Douglas B. Blair whose telephone number is (571) 272-3893.

The examiner can normally be reached on 9:00am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Andrew Caldwell can be reached on (571) 272-3868. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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ANDREW CALDWELL
SUPERVISORY PATENT EXAMINER